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Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket Numbers 96-262, 97-146, 96-98

Dear Ms. Salas:

On behalf of TDS Metrocom, a Competitive Local Exchange Carrier (CLEC) serving Tier 2 and Tier 3 cities and suburban areas in Illinois, Michigan and Wisconsin, representatives made an ex parte presentation to Common Carrier Bureau Chief Dorothy Attwood, who was accompanied by Jeff Dygert, Rich Lerner, Tamara Preiss and Jack Zinman. Attending the meeting for TDS Metrocom were its President and CEO, James Butman, its Vice President – Business Operations, Nick Jackson, Mark Jenn, Manager – Federal Affairs for its parent company, TDS Telecom, and I.

The group explained why mistaken assumptions and adverse impacts on competition necessitate significant changes in the Commission's decision to require CLECs to tariff and charge only access charges up to the level of the incumbent local exchange carrier's access charges or rapidly declining transitional levels except to the extent higher charges are negotiated with interexchange carriers or shifted to CLEC end users. They explained that TDS Metrocom had set its access charges based on a broader market rate analysis and examination of its own costs, so that its charges are appropriate and necessary for a CLEC competing in less dense

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markets and for residential customers against the huge Bell Operating Companies (BOCs), without the BOCs' dense core markets, extensive scale economies and long-established market presence. The group stressed the ineffectiveness of relying on negotiations between small CLECs and large interexchange carriers to achieve access rates that would recover CLEC costs and the serious need for relief that will enable CLECs to maintain and extend their competitive services under sound business plans, especially in smaller markets and for residential customers.

The group gave the attached written material to the Common Carrier Bureau representatives.

In the event of any questions concerning this matter, please let me know.

Very truly yours,

Margot Smiley Humphrey

Margot Smiley Humphrey

cc: Dorothy Attwood, Esq.
Jeff Dygert, Esq.

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TDS METROCOM BACKGROUND

TDS METROCOM is a successful, facilities-based CLEC providing service to residential and business customers in various small to medium-sized markets in Illinois, Michigan and Wisconsin. TDS METROCOM is a subsidiary of TDS TELECOM, which also owns 106 ILECs serving predominantly rural areas in 28 states.

Characteristic	**What Makes TDS METROCOM Different from Other CLECs**
Investor Funding:	We are not run by short-term venture capital money. Our corporate parent, Telephone & Data Systems provides funding.
Market Segment:	Many other carriers provide voice and data services to small and medium-sized businesses, but our company also focuses on residential voice and data. Of our 90,000 lines, over 35,000 are residential. (In comparison, Ameritech has over 14 million lines in IL, MI and WI.)
Geographic Focus:	We serve small to medium-sized cities that most CLECs have ignored. For example, the Wisconsin communities of Appleton, Beloit, Depere, Fond Du Lac, Green Bay, Janesville, Middleton, Neenah, Oshkosh, Pewaukee, Stoughton to name a few and a number of communities under 10,000 in population. The actual density of customers being served is in our market areas is more similar to that of independent ILECs than RBOCs. (METROCOM lines per square mile in service: S. Central Wisconsin - 71, NE Wisconsin - 34, SE Wisconsin - 9) Therefore, things such as access rates have been set in comparison to these peer companies - around 4 cents per minute.
Product Focus:	Our product line is very broad based and it includes local voice, long distance, and data services such as DSL. This includes 3,600 DSL lines of which 2,400 are residential.
Growth Curve:	Although we are growing by over 100% a year, unlike most CLECs our expansion has been well managed and limited to what our support systems can realistically digest. We have plans to expand into Indiana and Ohio, but only if we can project adequate returns.
Provisioning Method:	Given the culture and history of the company we have been very successful using a strict business case focus. As with some other CLECs, we deploy our own switches and use unbundled loops and T-1s, along with limited, business case-justified, fiber over-builds, but we avoid resale and UNE-P as a market entry strategy.
Regulatory Resources:	Our limited regulatory resources have been focused on important operational issues at the state level such as interconnection negotiations, unbundled element pricing dockets, proceedings to ensure adequate access to ILEC OSS and complaint and enforcement activities.
RBOC Relationship:	We are viewed as a credible competitor who manages issues with factual data and is serious about solving operational problems. We want to spend our time winning customers, not winning regulatory games.

ISSUES OF CONCERN TO TDS METROCOM REGARDING THE CLEC ACCESS ORDER
(CC 96-262, CC 97-146)

General

- Increasing trend of policymakers to assume costs for CLECs are equivalent to those of RBOCs, when CLEC cost structure is much more similar to independent ILECs.
- Smaller and regional CLECs were not adequately represented when national CLECs and IXCs negotiated the "GREAT proposal."
- The CLEC Access Order has significant consequences for small to medium-sized CLECs that don't have national scale or qualify for the extremely narrow rural exemption. Revenue losses jeopardize business plans and make it difficult to convince investors to fund expansion.
- Unlike many CLECs TDS METROCOM looked at our company's cost structure and did a thorough analysis of comparable ILEC rates for small and mid-sized companies as well as rates for the RBOCs and others CLECs in order to establish its access rates. However, by creating one-size-fits-all rules, the Commission is punishing TDS METROCOM along with all other CLECs for the actions of a few bad actors who may have attempted to game the system.

TDS METROCOM Proposal

- TDS METROCOM's proposal to use cost and density-based RBOC access pricing zones to allow for the recovery of legitimate CLEC access costs in certain geographic areas was not considered or even read by the Commission, although it was properly filed in the reply comment round.
- The FCC has recognized the need for UNE and USF deaveraging to reflect geographical cost differences yet those cost differences were not addressed in the CLEC Access Order.
- By using already established RBOC UNE pricing or exchange access density pricing zones, the FCC could create higher benchmark levels that allow carriers operating in areas that are more costly to serve to more appropriately price services. For example, Zone A (large metro areas) - 2.5 cents, Zone B (medium-sized cities) - 3.5 cents and Zone C (small cities and rural areas) 4.5 cents with rates reductions in all areas in subsequent years.
- Because TDS METROCOM's proposal was not considered, a waiver should be granted until the Commission reconsiders its decision in light of this proposal.

Other Provisions of the Order

- The provision to exclude new markets from the transition plan penalizes CLECs. It ignores the fact that it takes 12-18 months to plan and execute a new market deployment. Carriers with growth plans already in process will be deprived of the revenues needed to justify new market deployment. This will be a significant deterrent to expansion, especially in small to medium-sized markets.
- The provision allowing negotiation of rates above ILEC-based rates is in effect useless. Major IXCs refuse to negotiate in good faith with non-national CLECs. For example, one major IXC rescinded all settlement proposals after the CLEC Access Order was released, claiming that the 2.5-cent cap should be applied to past access traffic as well.
- CLECs need some recourse when IXCs refuse to negotiate in good faith, perhaps through a complaint process to the Commission and/or the ability to justify rates to state regulators and have those rates apply to interstate access traffic as well.
- 800 traffic has the same cost characteristics as other access traffic and should be treated subject to the same transition plan as all other access traffic.